



LEGAL DEPARTMENT

TOM SAFLEY
SENIOR COUNSEL
ENVIRONMENTAL, HEALTH & SAFETY

September 26, 2008

VIA CERTIFIED U.S. MAIL AND FACSIMILE (312) 886-9697

Jodi Swanson-Wilson
U.S. EPA Region 5 - Mail Code E-13J
77 West Jackson Boulevard
Chicago, IL 60604-3507

Re: Second Supplement to Self-Disclosure of Potential RCRA Violations

Dear Ms. Swanson-Wilson:

This correspondence is sent with regard to the notification submitted by Koch Pipeline Company, LP ("KPL") to EPA on July 18, 2008, under EPA's "Incentives for Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations" policy, 55 Fed. Reg. 9618 (11 April 2000) (the "Audit Policy"), and KPL's supplement to that notification, submitted to EPA on August 29, 2008 ("Audit Supplement").

In its August 29, 2008 Audit Supplement, KPL noted that in continuing its voluntary self-assessment of the waste management procedures KPL has utilized for above-ground storage tank cleanouts at its tanks located in the north-central United States, KPL had identified additional potential waste characterization issues under the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et seq., as administered through approved state programs, relating to a tank cleanout at KPL's facility located in Hartford, Illinois ("Hartford Facility") in 2007. In particular, KPL noted in its Audit Supplement that it had just received – and still was reviewing – some new information relating to its characterization of oily sand waste generated during that tank cleanout based on generator knowledge.

This correspondence is sent to update EPA with regard to KPL's review of this new information. The new information at issue was the existence of a sample of liquid-phase oil from some of the oily sand waste. Specifically, at the time the oily sand waste was generated, it was stored in drums at the KPL Hartford Facility. Thereafter, it was discovered that four of these drums contained a layer of liquid oil on top of the more solid, sandy waste in the drums. (Other drums of the same waste did not contain any layer of liquid oil.) On August 23, 2007, KPL's consultant collected a sample of the oil layer from one or more of these four drums. This sample was of free-phase oil only, and did not include any portion of the solids contained in the waste. This liquid oil sample was never analyzed for any constituents.

On August 29, 2008, KPL was informed that the consultant that collected this liquid oil sample still had possession of the sample, and had kept the sample refrigerated since the date it was collected. KPL subsequently had this sample analyzed for TCLP benzene, and the analysis determined that the benzene content of the sample is 1.07 mg/L. See analytical results enclosed.

KPL provides this information to EPA in order to fully disclose all information relating to the characterization and disposal of this waste. KPL notes, however, that this new information is not sufficient to characterize the oily sand waste as hazardous for benzene content. The waste contained greater than 0.5% solids. In fact, the majority of the waste was solids; as noted above, some of the waste contained no free-phase oil. Under EPA's Test Method 1311 – TCLP, Toxic Characteristic Leaching Procedure ("TCLP method"), if a waste contains more than 0.5% solids, the liquid and solid phases must be analyzed separately and the results mathematically combined to determine the concentration of any particular analyte in the waste as a whole. TCLP method, section 7.3.15.

As noted in KPL's August 29, 2008 Audit Supplement, KPL characterized the oily sand waste as non-hazardous based on generator knowledge and sent the waste to the Clean Harbors Spring Grove Resource Recovery facility in Cincinnati, Ohio. KPL since has been informed that Clean Harbors "solidified" the waste and sent it to a landfill operated by Rumpke Consolidated Companies, Inc., in Cincinnati, Ohio for disposal.

In light of the information KPL has generated through its voluntary self assessment, including the analytical result discussed above, it appears that the reliance on generator knowledge to characterize the oily sand as non-hazardous was likely not warranted and that laboratory analysis of the benzene content of that waste probably should have been obtained. Consequently, KPL discloses for the handling of the oily sand waste at the Hartford Facility in 2007 a probable violation of the waste characterization requirements set forth in 40 CFR § 262.11(c) and 35 Ill. Admin. Code § 722.111. In the event that the oily sand waste were determined to have been hazardous, that could lead to the other potential waste management violations noted in Attachment A to our July 18, 2008 disclosure, and KPL therefore discloses those potential violations for the 2007 oily sand waste as well.

As noted in KPL's correspondence dated August 29, 2008, KPL has put in place an interim waste management policy, and is revising its current waste management procedures, in order to address the practices that may have led to the potential violations discussed above. If you have any questions or require additional information about the details, discovery, or disclosure of the waste management issues for this Facility, please do not hesitate to contact me.

Sincerely,


Thomas G. Safley

TGS/hye

Enclosures

cc: Douglas Scott, Director Illinois EPA
Chris Korleski, Director Ohio EPA